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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,059	06/01/2007	Lena Ehmsen	2003036-US	4618

69289 7590 10/05/2010
COLOPLAST A/S
Attention: Corporate Patents
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EXAMINER

QUINN, RICHAE LEE

ART UNIT	PAPER NUMBER
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3765

NOTIFICATION DATE	DELIVERY MODE
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10/05/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@coloplast.com
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Office Action Summary	Application No. 10/584,059	Applicant(s) EHMSEN ET AL.	
	Examiner RICHALE L. QUINN	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/16/2007; 7/2/2010; 4/15/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1, 2, 3, and 4 are objected to because of the following informalities:
Applicant recites “the abdominal region”, “the front”, “the back”, “the edges”, “the two parts”, “the radii”, “the edges”, “the curved edge”, these limitations have not been positively recited in the claim and are therefore lacking antecedent basis. Appropriate correction is required.
2. Claims 8 -10 are objected to because of the following informalities: Applicant recites “elastan”. This appears to be a spelling error and should be corrected to read “elastane”. Appropriate correction is required

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Ellis-Brewer (US 5,435,015). The device of Ellis Brewer discloses a garment comprising an elastically extensible body part (16, 14) capable of applying pressure to an abdominal region and a crotch part (18), wherein the body part and the crotch part are interconnected at the back (Figure 2; 30,32). The crotch panel (18) being curved in a flat condition (Figure 2) wherein the radius of curvature of the crotch part (28) is smaller

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than the radius of curvature of the curved edge (26) of the body part (Column 3, lines 1-5). The curved edge of the crotch part is at least 10 -15 mm smaller than the radius of curvature of the curved edge of the body part (Column 3, lines 1-5). The fabric has a good feel (Figure 1) for use in clothing.

5. Claims 1, 3, 5, 6, 7 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hashimoto (US 4,612,674). The device of Hashimoto discloses a garment comprising an elastically extensible body part (2,3) capable of applying pressure to an abdominal region and a crotch part (4), wherein the body part and the crotch part are interconnected at the back (33,42;). The crotch panel (4) being curved in a flat condition (Figure 4) wherein the radius of curvature of the crotch part (4,42) is smaller (Column 3, lines 5 – 13) than the radius of curvature of the curved edge (33) of the body part (4). The curved edge (42) of the crotch part (4) is convex. The device is comprised of a knitted elastic material (Column 2, line 48) forming a tubular material undergarment (Figure 1) and has a good feel (Column 2, line 50) for use in clothing.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis Brewer in view of Zagame (US 5,613,893). The device of Ellis Brewer substantially

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discloses the claimed invention but is silent with regard to overall pressure. The device of Zagame discloses an undergarment for an abdominal portion of a larger person (Figure 1) that is formed of a material providing compression between 15-50 mmHg on the abdomen (Column 4, lines 22-25). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the device of Ellis Brewer by utilizing the compression material taught by Zagame in order to provide support to the abdomen (Column 1, lines 1-5).

8. Claim 8 -10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto in view of Drum (US 3,522,908). The device of Hashimoto substantially discloses the claimed invention but is silent with regard to the elastic fibers composition. The device of Drum discloses an elastic fabric for apparel such as undergarments (Column 1, line 43) comprising elastane fibers comprising 30% (Column 3, line 41) fiber weight. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the device of Hashimoto by utilizing the high stretch fabric taught by Drum in order to provide improved wear and wash characterizes of the garment (Column 1, lines 45-50).

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto in view of Beaupied (US 4,888,006). The device of Hashimoto substantially discloses the claimed invention but is lacking a hole for a stoma. The device of Beaupied discloses an undergarment (10) having an aperture (72) for a stoma. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize an aperture for a stoma as taught by Beaupied in order to provide

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an undergarment that is adaptable to the various needs of the user and support for ostomy while improving self image (Column 1, lines 53-63).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RICHALE L. QUINN whose telephone number is (571)272-8689. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richale L Quinn
Examiner
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/R. L. Q./
Examiner, Art Unit 3765

/GARY L. WELCH/
Supervisory Patent Examiner, Art Unit 3765